

REMARKS

Reconsideration of the above-identified application is respectfully requested.

Claims 1–4 were rejected as unpatentable over Lübbe et al. in view of Futamase et al. The Lübbe et al. patent discloses a volume control circuit in which gain is adjusted to match the level of each one of several input signals. The Lübbe et al. patent discloses the following in connection with FIG. 1; see column 5, lines 51–66.

Whenever another signal source is to be switched to, a data word belonging to this signal source is read into data register 31. This word remains stored in data register 31 until a control signal for selecting one of the signal sources is supplied to read-in control input 33 again. The data word stored in data register 31 contains, on the one hand, information on the switching position of selector switch 11 belonging to the selected signal device and, on the other hand, information on which one of electronic switches 23 is to be rendered conductive for the selected signal source. In this way one can assign to each signal source a certain signal gain through operational amplifier 15, for example in order to make the audio signal delivered by the output of operational amplifier 15 have a signal level which is essentially independent of which of the signal sources is selected at the moment. This avoids unpleasant volume jumps upon a switchover to another signal source.

The Examiner acknowledges some of the shortcomings of the Lübbe et al. patent and then asserts that “use of an accumulator in an electronic circuit is well-known in the art.” Such a broad generalization could hardly be untrue. On the other hand, the claims under consideration are more specific than the generalization.

(1) The Examiner turns to the Futamase et al. patent, which discloses a function generator for a music synthesizer. It is respectfully submitted that the combination does not begin to satisfy the requirements of *In re Rouffet* 47 USPQ2d 1453 (Fed. Cir. 1998) for a motive to combine prior art.

(2) Even if the combination were somehow plausible, it would destroy the function of the circuit disclosed in the Lübbe et al. patent, viz. avoiding “unpleasant volume jumps upon a switchover to another signal source.” The data in register 143 in the Futamase et al. patent is used for a completely different, and incompatible, purpose from the data in the Lübbe et al. patent.

(3) Even if the combination were plausible, the result is not the invention claimed. The data in the Lübbe et al. patent changes only when the input selection is changed, otherwise the gain is **constant**. Even if one somehow combined the

disclosure of the Futamase et al. patent, the result is not a gradual change in the amplitude of a signal.

(4) The Examiner asserts that the Futamase et al. patent discloses "a source of slope data (see Figs. 2, 1)." Neither figure refers to slope data. The Futamase et al. patent does not appear to use the word "slope." The Examiner is requested to specifically identify where "slope data" is disclosed in the Futamase et al. patent.

Claims 13–15 were rejected as unpatentable over Sullivan et al. in view of Lübbe et al. and Futamase et al. The Sullivan et al. patent is classified in class 379, subclass 96. The Lübbe et al. patent is classified in class 381, subclass 94.5. The Futamase et al. patent is classified in class 84, subclass 1.22. It is respectfully submitted that if a restriction were being made based upon these classifications, the Examiner would have no doubt that the inventions described in the patents were unrelated. The same thought applies here. The combination does not even begin to satisfy the requirements of *In re Rouffet* 47 USPQ2d 1453 (Fed. Cir. 1998) for a motive to combine prior art.

The "mute button" in the Sullivan et al. patent is a switch, nothing more. The term "mute" occurs only once in the description, in connection with the button. There is no further disclosure concerning muting.

The Examiner makes the bald assertion that the Lübbe et al. patent teaches a soft muting circuit. As noted above, the whole purpose of the circuit in the Lübbe et al. patent is a **constant amplitude** output. It is respectfully submitted that the Examiner's assertion is plainly contrary to the paragraph quoted above from the Lübbe et al. patent.

Claims 13–15 distinguish over the Lübbe et al. for the reasons given above.

The remainder of the proposed combination is improper for reasons (1), (2), (3), and (4) given above.

In view of the foregoing amendment and remarks, it is respectfully submitted that claims 1-4 and 13-15 are in condition for allowance and a Notice to that effect is respectfully requested.

Respectfully submitted,



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